

OUTDOOR DINING GUIDELINES

PLANNING AND DEVELOPMENT

Strategic Planning



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1 Do I need to apply for an Outdoor Dining Licence?

If you have a food business that would like to use council land or footpath for outdoor dining purposes, you **will** need an Outdoor Dining Licence. An Outdoor Dining Licence may be issued for short term and/or special events. This comprises use of public space for outdoor dining of less than 7 days in any single calendar year; there is no requirement for these days to be consecutive.

If you have a food business that provides tables and chairs for outdoor dining purposes on private land, e.g. within the boundaries of shopping centres, you **will not** require an Outdoor Dining Licence.

2 Applying for a licence

To apply for a licence, you will need to submit an Application for Outdoor Dining Licence, and pay the relevant outdoor dining licence fees to council. The applicant for a permit must be a legal entity (e.g. a person or company). A business name or shop name is not a legal entity and cannot be the permit holder. The applicant for the Outdoor Dining Licence must be the same as that on the Townsville City Council Food Licence.

As part of the application, you will need to provide:

- » a plan showing the design and layout of proposed activities (see 5 Designing an Outdoor Dining area, below)
- » a colour photograph of the proposed outdoor dining area
- » Certificate of Cover for a minimum \$10 m current public liability insurance, noting Townsville City Council as an interested party in respect of outdoor dining
- » a copy of your current Townsville City Council Food Licence, issued in the same name as the applicant for the Outdoor Dining Licence
- » details of all proposed signage and advertising
- » any further information as required by council on a case by case basis.

Note that where the proposed outdoor dining area abuts a state-controlled road, additional documentation must be provided to the Department of Transport and Main Roads.

3 Fees

For the current outdoor dining fees as detailed below, phone council on 1300 878 001, or view online in Planning and Development's *Schedule of fees and charges* on the Townsville City Council website. These fees are reviewed each financial year.

Application fee – a one-off fee paid on submitting a new Outdoor Dining Application, to cover council's cost of assessing the application. If an existing Outdoor Dining Licensee sells the business, the new owner will need to apply if they wish to continue to use the footpath for outdoor dining.

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Annual licence fee - an annual fee that may be required to cover council's inspection and administration of the outdoor dining area.

Failed compliance fee – a fee incurred in the event of a breach of the Outdoor Dining Policy, and the subsequent issuance of a notice of compliance failure.

Special events fee – an Outdoor Dining Licence fee that covers up to six separate or consecutive days in any single calendar year.

4 Assessment process

Your application will be assessed against the Outdoor Dining Policy, these guidelines and planning scheme policy [SC6.4.3.4 Outdoor dining design](#). All of these documents are available on council's website.

If your application is approved, you will be required to sign an Outdoor Dining Licence Agreement, and can then proceed with using the outdoor dining area in accordance with your Licence.

Applications can take up to 30 days to assess, once a complete application has been made. You will need to take this into consideration when starting your food business.

5 Designing an outdoor dining area

Outdoor dining may increase risks to diners, pedestrians and motorists. To assist in the management of these risks, planning scheme policy SC6.4.3.4 Outdoor dining design describes requirements for:

- » risk considerations, for the diners, pedestrians, and passing drivers, including crash barriers, pedestrian fences and setbacks from the road
- » pedestrian access through the outdoor dining area
- » clearances to public infrastructure
- » furniture, including its amenity, safety and storage
- » the use of umbrellas and shade structures
- » advertising, toilet facilities, and lighting requirements

SC6.4.3.4 Outdoor dining design contains various diagrams that will help you with designing a safe layout for your outdoor dining area. The Outdoor dining design document can be accessed via ePlanning on council's website.

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How do I find the [SC6.4.3.4 Outdoor dining design](#) document?

1. Go to the Townsville City Council website home page. From the 'I want to' menu, use the drop down menu next to 'Find out about' to select ePlanning.
2. Once on the ePlanning home page, select 'Townsville City Plan'.
3. Using the Townsville City Plan menu on the left hand side, click on Schedule 6, then SC6.4 Development manual planning scheme policy. Click on Design standards, which will take you to the list of documents in this section.
4. Click on Outdoor dining design. This can be printed for ease of use, if preferred.

6 Conditions of approval

- » A copy of the Outdoor Dining Licence Agreement and approved layout plan must be kept on the premises, and is to be produced to any authorised person on request.
- » Once an Outdoor Dining Licence is issued, it will be valid until terminated.
- » It should be noted that in areas where there is pedestrian congestion, or high volumes, or uncertainty about future pedestrian volumes or other relevant issues, a specific licence period may be nominated, and a trial period may be required.
- » Businesses holding an Outdoor Dining Licence will be subject to inspection by council, as required. Failure to adhere to the various guidelines will lead to an unsatisfactory inspection report, and businesses are required to address/remedy any issues raised in the report within 14 days of receipt of the report. Issues that affect public safety must be addressed/remedied immediately. The failed compliance fee may be applied if any issues are raised in the report and a follow up inspection is required.
- » Failure to address issues described in the unsatisfactory satisfaction report within the timeframes detailed above will result in revocation of the Outdoor Dining Licence.
- » The outdoor dining area can be used during the hours that the food business is operational.
- » The selling of any alcoholic liquor is only permitted in the footpath area if the appropriate liquor licence has been obtained. However, council, at its absolute discretion (within the terms of the Outdoor Dining Licence Agreement), reserves a right to prohibit the selling or consumption of alcohol within the licensed area should council be of an opinion that such activities would detrimentally affect the use of the footpath by the general public or generate negative publicity regarding the Outdoor Dining Policy and public amenities.

7 Cancelling or changing the licence

7.1 Cancellations

A licence can be cancelled at any time by either party with 4 weeks' notice.

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The council may re-enter the licensed area and cancel the licence if:

- » any part of the licence fee is in arrears for 30 days; or
- » the licensee breaches this licence and does not remedy the breach within 14 days of receipt of written notice from the council.

Council monitors conditions in public spaces on an ongoing basis. Pedestrian movement patterns and other issues may lead to the revocation or suspension of a licence at any time, should council consider it to be in the public interest to do so.

The licence is issued solely at the council's discretion and does not create any tenure or proprietary interest in the licence area. The council is free to terminate the licence at any time at its sole discretion, and termination will not give rise to any obligation to pay compensation.

Whenever the council proposes to suspend or cancel a licence, it must, if possible, give at least 14 days written notice. Notice periods will be abridged where there is any risk to public safety and amenity.

7.2 Amendments to an existing Outdoor Dining Licence

If you wish to make an amendment to an Outdoor Dining Licence, you will be required to submit a new Application for an Outdoor Dining Licence and provide details as per the application process described above.

There is no provision for transfer of ownership of any Outdoor Dining Licence. If the Townsville City Council Food Licensee changes, the Outdoor dining licence will no longer be valid.

8 Useful information

Structural changes to accommodate outdoor dining	While development approval for use of the road reserve is not required for outdoor dining itself, any changes to the business's building structure or purpose are subject to council's usual planning and regulatory processes. The applicant must ensure that all relevant approvals have been obtained prior to submitting an Outdoor Dining Licence Application. Discuss any plans to build additional structures such as shade awnings with council prior to submitting an Outdoor Dining Licence Application.
Food premises licence	Information about obtaining a Food Premises Licence is available at www.townsville.qld.gov.au .

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Advertising devices	For information about advertising signs refer to the Subordinate Local Law 1.4 Installation of Advertising Devices 2011, or 9.4.1 Advertising devices code in the Townsville City Plan. These are both found on council's website.
Placing items on the footpath	For information about displays or placing items on the footpath - for example bollards, umbrellas, planter boxes, refer to SC6.4.3.4 Outdoor dining design in ePlanning on council's website.
Liquor licence applications	Information about obtaining a licence to sell alcohol on the premises is available at www.olgr.qld.gov.au . The applicant is to lodge the Application for Liquor Licence application form or Change of Licensed Area Form with council first to have the request for owner's consent for council owned land completed by council. The completed form will then be returned to the applicant for lodging with the Queensland Government Office of Liquor and Gaming Regulation.
Located on state controlled road	If the outdoor dining area is located or proposed to be located on a State-controlled road, the applicant is to lodge an additional copy of all documentation for submission by council to the Department of Transport and Main Roads. Maps showing state controlled roads are found on the Department of Transport and Main Roads website.
Registering a new business name	Information about registering a new business name is available from Queensland Government Office of Fair Trading at www.fairtrading.qld.gov.au .
Smoking restrictions	www.health.qld.gov.au
Animal restrictions	www.health.qld.gov.au

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